

Proposed Changes to Historic Preservation Ordinance





Purpose of Historic Preservation

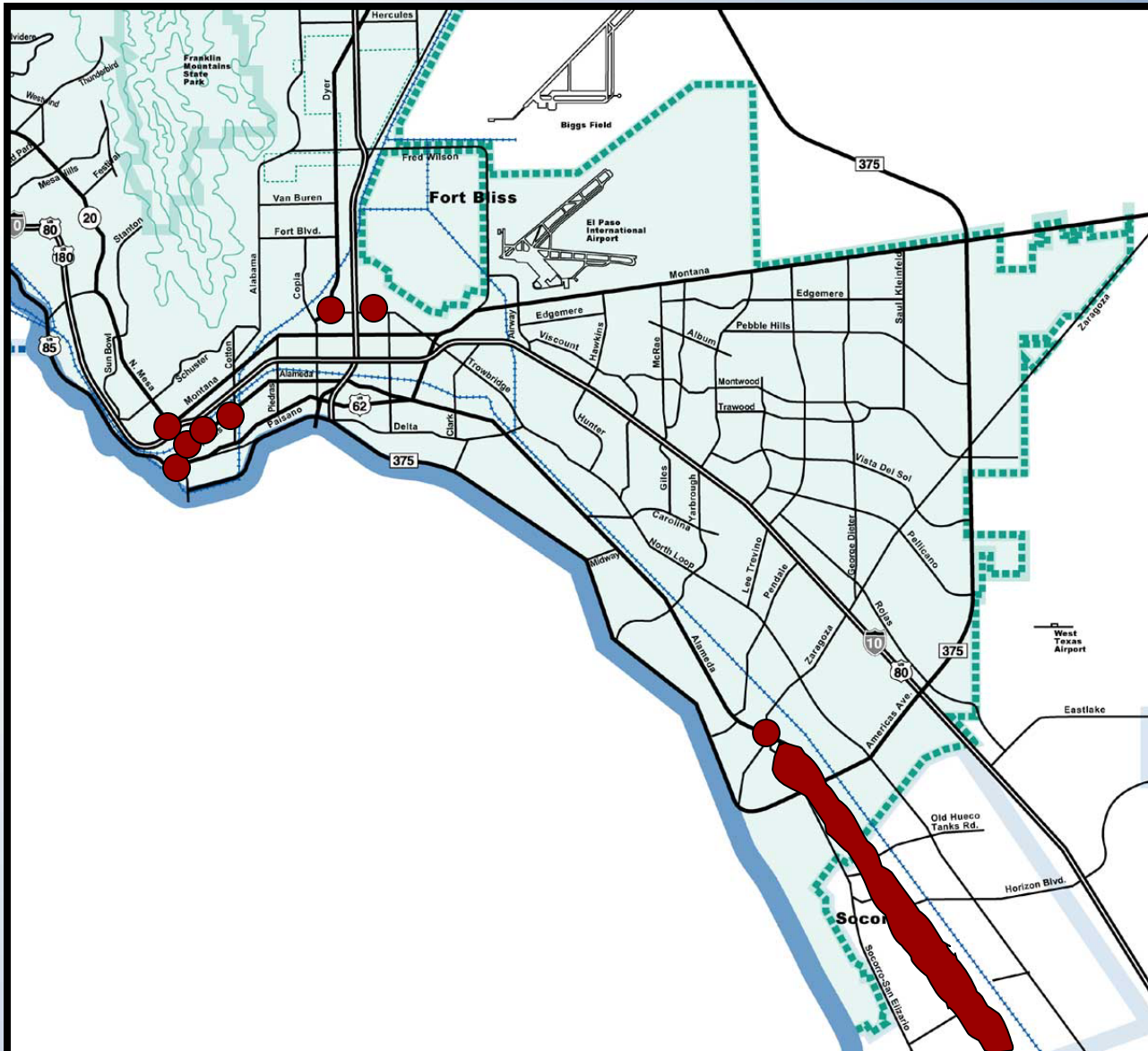
- To protect, enhance and perpetuate historic landmarks which represent or reflect distinctive and important elements of the city's, region's, state's or nation's architectural, archaeological, cultural, social, economic, ethnic and political history and to develop appropriate settings for such places;
- To safeguard the city's historic and cultural heritage, as embodied and reflected in such historic landmarks by appropriate regulations;
- To protect and enhance the city's attractions to tourists and visitors and provide incidental support and stimulus to business and industry;
- To promote the use of historic landmarks for the culture, prosperity, education and general welfare of the people of the city and visitors to the city;
- To prevent the uprooting of architectural products of distinct periods, which may occur without regard to the feasibility of preserving and continuing the use of such landmarks, and without consideration of the irreplaceable loss to the people of the city of the cultural, historic and aesthetic values represented by such landmarks.



CLG Participation & Coordination with State

- The City of El Paso is a designated Certified Local Government (CLG)
- The City has entered into an agreement with the Texas Historical Commission to coordinate efforts on Historic Preservation.
- The CLG Agreement mandates that a local Historic Landmark Commission be created as well as a local Ordinance addressing the goals & objectives of the City's effort to protect its historic resources.

El Paso's Historic Districts



Planning, Research & Development



How many Historic Districts in El Paso?

Currently there are nine (9) Historic Districts in El Paso:

- Austin Terrace
- Chihuahuita
- Downtown
- Magoffin
- Manhattan Heights
- Mission Trail
- Old San Francisco
- Sunset Heights
- Ysleta



Assessment of Program

- ☒ Interviews of current Historic Landmark Commission members
- ☒ Interviews of past Historic Landmark Commission Chairs
- ☒ Departmental evaluation forms
- ☒ Peer review by San Antonio Planning Department



Process Timeline

- ☒ Re-organize Historic Preservation staff
- ☒ Modify/upgrade application process
- ☒ Increase communication with Historic Landmark Commission
- ☒ Revamp Historic Preservation Ordinance based on assessment
- ☒ Work with Historic Landmark Commission on proposed changes
- ☒ Involve historic property owners in rewrite process
- ☒ Gather comments from historic property owners
- ☒ Return to Historic Landmark Commission for final approval
- ☒ Forward final recommendations to Building & Zoning Advisory Commission
- ☐ City Plan Commission recommendation
- ☐ City Council approval
- ☐ Design Guidelines updates / creation



Summary of Major Changes

- Update & modify definitions
- Modify composition of HLC to include professionals with expertise in Historic Preservation as well as historic district residents
- Modify HLC meeting schedule & timeline for processing cases
- Include Historic Preservation Officer describing general duties
- Modify landmark designations
- Include National Register Participation
- Modify process for alterations, changes, demolition & administrative review
- Include a section on enforcement & procedures
- Redefine section on “Prevention of Demolition by Neglect”
- Introduce concept of Ad Valorem Tax Incentives for Historic Properties
- Introduce a section on Historic Landmark Recognition



Existing Language & Proposed Changes to Ordinance

Existing Language

Definitions

- Existing Definitions

Proposed Changes

20.67.010 Definitions

- Update existing definitions
- Add definitions
- Avoid ambiguity
- Re-number definitions

(Pages 2-6 on Draft 9)



Existing Language & Proposed Changes to Ordinance

Existing Language

Historic Landmark Commission Creation

- Two Architects (AIA)
- One Historian
- One Archeologist

Proposed Changes

20.67.030 Historic Landmark Commission Creation

- Two Architects (AIA)
- Membership positions may be filled with members including, but not limited to representatives from:
 - El Paso Association of Home Builders;
 - El Paso Realtor's Association;
 - Ft. Bliss;
 - El Paso Preservation Alliance;
 - Home owner's association serving an historic district, and
 - The El Paso Archeo. Soc.



Existing Language & Proposed Changes to Ordinance

Existing Language

Historic Landmark Commission Meetings

- The commission shall meet at least once a month at a regularly scheduled time
- Action of the Historic Landmark Commission – 60 days
- Quorum – one more than half of the members appointed
(Currently need 6 members to meet quorum)

Proposed Changes

20.67.050 Historic Landmark Commission Meetings

- The commission shall meet at least twice a month when cases are scheduled
- Action of the Historic Landmark Commission – 45 days
- Quorum – simple majority

(Pages 8-9 on Draft 9)



Existing Language & Proposed Changes to Ordinance

Existing Language

Historic Preservation Officer

- No reference

Proposed Changes

20.67.060 Historic Preservation Officer

Director of Planning or his/her designee may but is not limited to:

- Serve as the local preservation contact and/or liaison for: the City of El Paso, the community, Texas Historical Commission, and the National Park Service.
- Accept and process cases before the Historic Landmark Commission as outlined in Section 20.67.130.
- Coordinate research efforts as requested by the Landmark Commission.
- Actively seek grants to assist the Historic Preservation Program.
- Accept and process applications for the Tax Abatement Program for Historic Properties.
- Maintain and update the inventory of historic properties.
- Maintain and update the database of cases processed before the Landmark Commission.
- Approve Administrative Review applications as specified in the Administrative Review Design Guidelines.

(Included in FY 2004 Budget Request)



Existing Language & Proposed Changes to Ordinance

Existing Language

Historic Landmark Designation

- Landmark;
- Contributing;
- Noncontributing property;

Proposed Changes

20.67.90 Historic Landmark Designation

- Exceptional historic landmark;
- Significant historic landmark;
- Contributing property;

(Pages 10-11 on Draft 9)



Existing Language & Proposed Changes to Ordinance

Existing Language

National Register Nomination Participation

- No reference

Proposed Changes

20.67.100 National Register Nomination Participation

- Upon the Landmark Commission's receipt from the National Register Programs office of National Register nomination materials accompanied by a preliminary National Register programs office staff recommendation in regard to form, content, and merit of proposed nomination, the Landmark Commission shall forward a copy to the Mayor's office and each shall separately notify the National Register programs office, owner of subject property, and applicant as to their opinion within 60 days.



Existing Language & Proposed Changes to Ordinance

Existing Language

National Register Nomination Participation

- No reference

Proposed Changes

20.67.100 National Register Nomination Participation

- Prior to submittal of opinions, the local preservation officer shall be responsible for verification of the accuracy of the nomination, including the names of all owners of properties included in the nomination. The local preservation officer shall also provide public information meetings concerning the proposed nomination wherein reasonable opportunity for public comment is provided. The local preservation officer shall provide results of the research and public meetings separately to the Mayor and Landmark Commission prior to their submittal of separate opinions regarding any nomination.



Existing Language & Proposed Changes to Ordinance

Existing Language

Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

When applying for a building permit for the exterior of a designated historic landmark, or a designated historic interior, the applicant shall submit two copies of all detailed plans, elevations, perspectives, specifications and other documents pertaining to the work.

Proposed Changes

20.67.140 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

- For the exterior of a designated historic landmark, or a designated historic interior, the applicant shall submit the following:
 - One (1) copy of completed Application for Certificate of Appropriateness or Application for Certificate of Demolition form.
 - One (1) copy of detailed site development plan and construction drawings scaled to 1" = 20' showing the following:
 - Legal description of the property;
 - Lots lines with dimensions of the areas;



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When applying for a building permit for the exterior of a designated historic landmark, or a designated historic interior, the applicant shall submit two copies of all detailed plans, elevations, perspectives, specifications and other documents pertaining to the work.

Proposed Changes

20.67.130 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

- Procedure when applying for a Certificate of Appropriateness and Certificate of Demolition.
- For the exterior of a designated historic landmark, or a designated historic interior, the applicant shall submit the following:
 - a. One (1) copy of completed Application for Certificate of Appropriateness or Application for Certificate of Demolition form. Applications must be typewritten or printed in ink in legible form. Completed applications shall be accepted and scheduled for Historic Landmark Commission hearing on a first-come first-serve basis.
 - b. One (1) copy of a detailed site development plan and construction drawings scaled to 1" = 20' showing the following:



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Proposed Changes

20.67.130 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

- i. Legal description of the property;
- ii. Lots lines with dimensions of the areas;
- iii. Location and arrangement of structures;
- iv. Location, type, and arrangement of windows, doors, & other openings where applicable; (Include sample of each type of window or door from brochure, catalog or manufacturer)
- v. Square footage of structure(s), including number of dwelling units;
- vi. Required yards and setbacks;
- vii. Proposed building materials (i.e., concrete, stucco, wood, metal);
- viii. Sample of proposed color(s) & texture (i.e., color swatch with name, manufacturer, & number)
- ix. Open spaces, where applicable;



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Proposed Changes

20.67.130 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

- x. Landscaped planted areas, where applicable;
- xi. Architectural design of buildings, modification, addition, or new construction (floor plan(s) and elevations);
- xii. Construction details for roof, walls, floor, and foundation
- c. One (1) copy of a proof of ownership or other legal document demonstrating that the individual(s) or corporation making the application for a Certificate of Appropriateness or Certificate of Demolition is the current property owner such as a certificate from a title company or warranty deed. An individual or entity who has a contract to purchase property may also submit an application with the owner's written authorization.
- d. A copy of any deed restrictions, existing or proposed, on the property shall also be submitted.



Existing Language & Proposed Changes to Ordinance

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Proposed Changes

20.67.130 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

- e. Two (2) 8½" x 11" copies of the detailed site development plan and scaled construction drawings at 1" = 20'. Each copy must contain the address and legal description of the property.

(Pages 12-13 on Draft 9)



Existing Language & Proposed Changes to Ordinance

Existing Language

Administrative Review Approval.

These items will be reviewed and, if they conform to the guidelines, will be approved by the director or designee and returned to the building services department:

- Landscape materials
- New fencing
- Wrought iron security coverings for windows and doors;
- Exterior accessibility ramps;
- Skylights;
- Off-premise and on-premise commercial and residential signs
- Replacement of garage or household exterior doors that match the original doors;
- Walkways, driveways, and aprons;
- Swimming pools in the rear yard;
- Routine maintenance

Proposed Changes

20.67.130 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

Procedure when applying for Administrative Review Approval

1. Administrative review will be conducted by the historic preservation officer in accordance with the administrative review design guidelines, for items listed below.
2. These items will be reviewed and, if they conform to the guidelines, will be approved by the historic preservation officer and returned to the Building Permits & Inspections Department:
 - a. Landscape materials including vegetation, irrigation, and xeriscaping, in the front, rear, side yards, and parkways
 - b. New fencing on the front, rear and side yards
 - c. Wrought iron security coverings for windows and doors;



Existing Language & Proposed Changes to Ordinance

Existing Language

Administrative Review Approval.

These items will be reviewed and, if they conform to the guidelines, will be approved by the director or designee and returned to the building services department:

- Landscape materials
- New fencing
- Wrought iron security coverings for windows and doors;
- Exterior accessibility ramps;
- Skylights;
- Off-premise and on-premise commercial and residential signs
- Replacement of garage or household exterior doors that match the original doors;
- Walkways, driveways, and aprons;
- Swimming pools in the rear yard;
- Routine maintenance

Proposed Changes

20.67.130 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

d. Exterior accessibility ramps when placed in non-character-defining façades; Include the following:

e. Skylights and air-conditioned units when placed in non character-defining facades or visible from the front facade; Include the following:

f. Off-premise and on-premise commercial and residential signs within historic districts in accordance with Section 20.66.340 and 20.66.350 as applicable;

g. Replacement of garage or household exterior doors that match the original doors. Include sample of door from brochure, catalog or manufacturer;

h. Walkways, driveways, and aprons; Include location and materials.

i. Swimming pools and tennis courts where permitted by sufficient area in the side and rear yard;



Existing Language & Proposed Changes to Ordinance

Existing Language

Administrative Review Approval.

These items will be reviewed and, if they conform to the guidelines, will be approved by the director or designee and returned to the building services department:

- Landscape materials
- New fencing
- Wrought iron security coverings for windows and doors;
- Exterior accessibility ramps;
- Skylights;
- Off-premise and on-premise commercial and residential signs
- Replacement of garage or household exterior doors that match the original doors;
- Walkways, driveways, and aprons;
- Swimming pools in the rear yard;
- Routine maintenance

Proposed Changes

20.67.130 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

j. Routine maintenance, including but not be limited to: painting, re-roofing, repair of walks, driveways, fences;

k. Placement of fire escapes when placed in non-character-defining façades and where allowed by other City Ordinances.

l. Installation of windows similar to the original in appearance and strength of purpose, regardless of construction materials Include sample of window from brochure, catalog or manufacturer;

m. Installation of temporary portable sheds when placed in non character-defining facades and not in the front or side yards. Shed shall not exceed one hundred twenty square feet (120 sq. ft.) in size. Colors shall complement the existing historic structure.



Existing Language & Proposed Changes to Ordinance

Existing Language

Administrative Review Approval.

These items will be reviewed and, if they conform to the guidelines, will be approved by the director or designee and returned to the building services department:

- Landscape materials
- New fencing
- Wrought iron security coverings for windows and doors;
- Exterior accessibility ramps;
- Skylights;
- Off-premise and on-premise commercial and residential signs
- Replacement of garage or household exterior doors that match the original doors;
- Walkways, driveways, and aprons;
- Swimming pools in the rear yard;
- Routine maintenance

Proposed Changes

20.67.130 Alterations and changes to landmarks and H-overlay properties; Administrative Review Approval.

- n. Installation of outdoor playground equipment when placed in non character-defining facades and not in the front or side yards.
- o. Painting of previously painted surfaces other than brick or any type of stone with colors compatible with the historic district;
- p. Installation of outdoor lighting fixtures and security fixtures when such elements complement the design context of the structure;
- q. Minor construction work when placed in a non character-defining façade and not visible from the street. Any minor construction and/or alteration found to have a detrimental impact on the historic character of the structure or historic district shall be subject to a certificate of appropriateness as outlined in 20.67.130 Subsection (C).

(Pages 13-14 on Draft 9)



Existing Language & Proposed Changes to Ordinance

Existing Language

Modification of Certificate of Appropriateness.

- No provisions available

Proposed Changes

20.67.140 Modification of Certificate of Appropriateness.

- If an applicant desires to make minor modifications to the Certificate of Appropriateness when he prepares final working drawings, he may apply to the historic preservation officer for a minor modification of the approved Certificate of Appropriateness.



Proposed Changes to Ordinance

20.67.140 Modification of Certificate of Appropriateness.

- If the historic preservation officer finds that:
 1. The minor modifications are in substantial conformity (see definition of "substantial conformity") to the approved Certificate of Appropriateness; or
 2. The minor modifications represent an improvement in the approved Certificate of Appropriateness, he/she may authorize such modifications, so inform the applicant in writing, and building permits may be issued and construction proceed.
- Changes other than such minor modification shall require new hearings and new approvals in the same manner as for review of the original Certificate of Appropriateness.

(Page 15 on Draft 9)



Existing Language & Proposed Changes to Ordinance

Existing Language

Enforcement

- No provisions available

Proposed Changes

20.67. 160 Enforcement

All work performed pursuant to a certificate of appropriateness or administrative review shall conform to any requirements included therein. It shall be the duty of the City's Building Official to inspect any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness or administrative review, the City's Building Official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

(Page 16 on Draft 9)



Existing Language & Proposed Changes to Ordinance

Existing Language

Historic Landmark Demolition or Removal

If an application is received for demolition or removal of a designated historic landmark, the deputy director for building services shall immediately forward the application to the landmark commission. The landmark commission shall hold a public hearing on the application within thirty days after the application is initially filed with the deputy director for building services. The applicant shall be given ten days written notice of the hearing. The landmark commission shall consider the historic value, the state of repair of the building, the reasonableness of the cost of restoration or repair, the existing and potential usefulness, including economic usefulness, of the building, the purposes behind preserving the structure as a historic landmark, the character of the neighborhood, and all other factors it finds appropriate.

Proposed Changes

20.67.170 Historic Landmark Demolition or Removal

The Commission shall delay the proposed demolition for a period of at least sixty (60) days from the date of request to demolish as is required pursuant to 13 Texas Administrative Code 15.6. After such delay, the Landmark Commission may approve or deny the application in whole or in part, or suspend action on it for a period not to exceed six months. When the Landmark Commission determines that one or more of these criteria are met, the application for a Certificate of Demolition shall be denied.



Existing Language & Proposed Changes to Ordinance

Existing Language

Demolition by Neglect.

A. No owner or person with an interest in real property designated as an historic landmark, as identified on the department of planning historic district maps, shall permit the historic landmark to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature or interior feature on a designated historic interior, which would, in the judgment of the commission, produce a detrimental effect upon the character of the historic district as a whole, or the life and character of the individual historic landmark itself.

- Deterioration of roofs or other horizontal members;
- Deterioration of chimneys;
- Deterioration or crumbling of stucco or mortar;
- Ineffective waterproofing of exterior walls, roof or foundations, including broken windows or doors; or
- Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

Proposed Changes

20.67. 180 Prevention of Demolition by Neglect.

Applicability. All historic landmarks shall be preserved against detrimental deterioration and kept free from certain structural defects by the owner or legal custodian who shall repair such building, object, site, or structure if it is found to have any of the following defects:

1. Deterioration of roofs or other horizontal members;
2. Deterioration of chimneys;
3. Deterioration or crumbling of stucco or mortar;
4. exterior 4. Ineffective waterproofing of walls, roof or foundations, including broken windows or doors; or
5. so as to 5. Deterioration of any feature create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(Page 17 on Draft 9)



Existing Language & Proposed Changes to Ordinance

Existing Language

Ad Valorem Tax Incentives for Historic Properties

- No provisions available

Proposed Changes

20.67. 200 Ad Valorem Tax Incentives for Historic Properties

- A. Ad Valorem Tax Incentives for historic properties shall be approved by City Council by resolution or ordinance in accordance with the provisions of this section when money is available for such incentives.
- B. Application. Application for an historic structure preservation tax exemption shall be filed with the Landmark Commission. The Landmark Commission shall be the agent of the City for purposes of administering the provisions herein.. Each application shall be signed and sworn to by the property owner and shall include the following:
1. Verification that the property is designated with an H-overlay in the Official Zoning Map for the City of El Paso.
 2. Verification that the property complies with applicable zoning regulations regarding its use and location.



Proposed Changes - Ad Valorem Tax Incentives

Proposed Changes

20.67. 200 Ad Valorem Tax Incentives for Historic Properties

3. Verification that the improvements are consistent with design guidelines adopted by City Council, and if no such standards have been adopted, then by the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
4. The legal description of the property proposed for certification.
5. An affidavit by the owner describing the historic significance of the structure in need of tax relief.
6. A final complete set of plans for the historic structure's restoration and rehabilitation in accordance with 20.67.140.
7. A Statement of costs for the restoration and rehabilitation work.
8. A projection of the estimated construction time and the predicted completion date of the historic restoration or rehabilitation.
9. Authorization by the owner to the Chair of the Landmark Commission and the city tax assessor-collector to visit and inspect the property proposed for certification. and the records and books of the owners as necessary to certify that the property in question is in substantial need of restoration or rehabilitation.
10. Detailed statement of the proposed use for the property. Each application shall contain sufficient documentation confirming or supporting the information submitted herein.



Proposed Changes - Ad Valorem Tax Incentives

Proposed Changes

20.67. 200 Ad Valorem Tax Incentives for Historic Properties

- Landmark Commission Certification.

1. Upon receipt of the sworn application, together with the fee as specified by resolution or ordinance, the Landmark Commission shall make an investigation of the property and shall certify the facts to the city tax assessor-collector within thirty days along with the Landmark Commission's documentation recommending approval or disapproval of the application for exemption
2. Tax Assessor-Collector Approval. Upon receipt of the certified application for tax exemption as well as the recommendation of the Landmark Commission, the city's tax assessor-collector shall within thirty days approve or disapprove eligibility of the property for tax relief pursuant to this ordinance. In determining eligibility, the tax assessor-collector shall first determine that all the requirements of this ordinance have been complied with and that only the historic structure and the land reasonably necessary for access and use thereof is to be provided favorable tax relief.
3. City Council Approval shall be by resolution or ordinance when money is available for this incentive.



Proposed Changes - Ad Valorem Tax Incentives

Proposed Changes

20.67. 200 Ad Valorem Tax Incentives for Historic Properties

- Verification of completion. Upon completion of the restoration and rehabilitation, the certified applicant shall submit a sworn statement of completion acknowledging that the historically significant site in need of tax relief to encourage preservation has been substantially rehabilitated or restored as certified by the Landmark Commission. The Landmark Commission, upon receipt of the sworn statement of completion, but no later than thirty days thereafter, shall make an investigation of the property and shall approve or disapprove the fact that the property has been substantially completed as required for certification. If the Landmark Commission determines that it has not been substantially completed as so required, then the certified applicant shall be required to complete the restoration or rehabilitation in order to secure the tax exemption provided herein. If the verification of completion is favorable, the Landmark Commission shall notify the tax assessor-collector in writing of compliance. Thereafter, the tax assessor-collector shall provide the property with the historic tax exemption.
- E. Applicability. This exemption shall begin on the first day of the first tax year after verification of the completion of the preservation required for certification and shall be applicable for ten full tax years; provided:
 1. The building shall comply with the applicable zoning regulations for its use and location;
 2. The historic character of the property and the improvements which qualified the property for an exemption must be maintained.
 3. The deed, grant, sale, bequest, devise or otherwise transfer of ownership in the property, except the donation of an historic easement on an exempt structure which donation shall qualify as a charitable contribution under Section 170(f)(3) of the Internal Revenue Code and its regulations as now exist or as they may hereafter be amended, shall cause the exemption provided herein to terminate on the last day of the tax year on which such transfer occurs.

(Pages 18 - 20 on Draft 9)